

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

No. 6:20-cv-00567

Tina Shafer-Isaac,

Plaintiff,

v.

C.R. Bard Inc. et al.,

Defendants.

ORDER

Plaintiff brought various claims stemming from injuries caused by defendants' Denali Vena Cava filter. Doc. 14. On January 8, 2021, plaintiff amended her complaint. Doc. 21. Defendants subsequently filed a motion under Federal Rule of Civil Procedure 12(b)(6) to dismiss plaintiff's gross negligence claim and any punitive-damage allegations. Doc. 23. Alternatively, defendants moved for a more definite statement and to strike certain allegations. *Id.*

This case was referred to United States Magistrate Judge John D. Love, who issued a report recommending that defendants' motion (Doc. 23) be granted in part as to plaintiff's claim for gross negligence, but that plaintiff be granted leave to amend her allegations with respect to this claim. Doc. 42. The magistrate judge also recommended that defendants' alternative request to strike the pleadings and for a more definite statement be denied. *Id.* Plaintiff has since filed a second amended complaint. Doc. 43.

Neither party has filed objections to the magistrate judge's report and recommendation in the permitted timeframe. The court therefore reviews the magistrate judge's findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (holding that, if no objections to a magistrate judge's report

are filed, the standard of review is “clearly erroneous, abuse of discretion, and contrary to law”).

Having reviewed the magistrate judge’s report, and being satisfied that it contains no clear error, the court **accepts** its findings and recommendation. Defendants’ motion to dismiss (Doc. 23) is **granted-in-part** and **denied-in-part**. Plaintiff’s second amended complaint (Doc. 43) shall be the live complaint in this action and defendants shall respond in accordance with the Federal Rules of Civil Procedure.

So ordered by the court on March 29, 2021.



J. CAMPBELL BARKER
United States District Judge